

THURSDAY, FEBRUARY 27, 2003

TWELFTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Dr. Bruce White of Madison Church of Christ in Madison, Tennessee, a guest of Senator Haynes.

PLEDGE OF ALLEGIANCE

Senator Haynes led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 31

Senators present were: Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--31.

HOUSE BILL ON FIRST CONSIDERATION

The Speaker announced that the following House Bill was transmitted to the Senate and passed first consideration:

House Bill No. 528 -- Westmoreland -- Subject to local approval, changes town election from December to November. Amends Chapter 306 of the Private Acts of 1951; as amended.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 1982 held on desk.

Senate Bill No. 1983 held on desk.

INTRODUCTION OF RESOLUTIONS

The Speaker announced the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

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Senate Joint Resolution No. 127 by Senator Fowler.

Constitutional Amendments -- Adds new provision to Article I to provide that nothing in Constitution of Tennessee secures or protects right to abortion or funding thereof.

Senate Resolution No. 17 by Senator Haynes.

Memorials, Recognition -- William E. Farmer.

CAPTION BILL REFERRALS

Pursuant to Rule 28, the following bills were recalled from the Clerk's desk and referred to committee:

Senate Bill No. 359 referred to Committee on General Welfare, Health and Human Resources, without amendment.

Senate Bill No. 388 referred to Committee on Commerce, Labor and Agriculture, without amendment.

Senate Bill No. 389 referred to Committee on Commerce, Labor and Agriculture, without amendment.

RESOLUTIONS LYING OVER

House Joint Resolution No. 89 -- Memorials, Professional Achievement -- Don Baker.

The Speaker announced that he had referred House Joint Resolution No. 89 to Committee on Calendar.

House Joint Resolution No. 90 -- Memorials, Retirement -- Ray Anthony "Tony" Proffitt.

The Speaker announced that he had referred House Joint Resolution No. 90 to Committee on Calendar.

House Joint Resolution No. 91 -- Memorials, Professional Achievement -- Mark Brown and staff.

The Speaker announced that he had referred House Joint Resolution No. 91 to Committee on Calendar.

House Joint Resolution No. 92 -- Memorials, Personal Occasion -- Reverend William T. Morefield.

The Speaker announced that he had referred House Joint Resolution No. 92 to Committee on Calendar.

House Joint Resolution No. 93 -- Memorials, Heroism -- Ripley firefighters.

The Speaker announced that he had referred House Joint Resolution No. 93 to Committee on Calendar.

House Joint Resolution No. 94 -- Memorials, Congratulations -- Ripley First Baptist Church Sesquicentennial Celebration.

The Speaker announced that he had referred House Joint Resolution No. 94 to Committee on Calendar.

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House Joint Resolution No. 96 -- Memorials, Academic Achievement -- Jasmine Darden, Outstanding African-American Students of Tennessee.

The Speaker announced that he had referred House Joint Resolution No. 96 to Committee on Calendar.

House Joint Resolution No. 98 -- Memorials, Personal Achievement -- Brent Mozingo, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 98 to Committee on Calendar.

House Joint Resolution No. 99 -- Memorials, Recognition -- Claude Holsclaw.

The Speaker announced that he had referred House Joint Resolution No. 99 to Committee on Calendar.

House Joint Resolution No. 100 -- Memorials, Personal Achievement -- Thomas Collins, Eagle Scout.

The Speaker announced that he had referred House Joint Resolution No. 100 to Committee on Calendar.

House Joint Resolution No. 101 -- Memorials, Sports -- John Timothy Armes.

The Speaker announced that he had referred House Joint Resolution No. 101 to Committee on Calendar.

House Joint Resolution No. 102 -- Memorials, Public Service -- Lucy W. Lee, Leadership Wilson, Inc.

The Speaker announced that he had referred House Joint Resolution No. 102 to Committee on Calendar.

House Joint Resolution No. 103 -- Memorials, Retirement -- Charles Meek.

The Speaker announced that he had referred House Joint Resolution No. 103 to Committee on Calendar.

House Joint Resolution No. 104 -- Memorials, Death -- Robert Lynn Rees.

The Speaker announced that he had referred House Joint Resolution No. 104 to Committee on Calendar.

Senate Joint Resolution No. 122 -- Memorials, Sports -- Will Ofenheusle.

The Speaker announced that he had referred Senate Joint Resolution No. 122 to Committee on Calendar.

Senate Joint Resolution No. 123 -- Memorials, Death -- William L. Brooks.

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The Speaker announced that he had referred Senate Joint Resolution No. 123 to Committee on Calendar.

Senate Joint Resolution No. 124 -- Memorials, Congratulations -- Norris Cranford.

The Speaker announced that he had referred Senate Joint Resolution No. 124 to Committee on Calendar.

Senate Joint Resolution No. 125 -- Memorials, Personal Achievement -- William Haltom III, Eagle Scout.

The Speaker announced that he had referred Senate Joint Resolution No. 125 to Committee on Calendar.

Senate Joint Resolution No. 126 -- Memorials, Congratulations -- Belmont University Speech and Debate Team.

The Speaker announced that he had referred Senate Joint Resolution No. 126 to Committee on Calendar.

Senate Resolution No. 15 -- Memorials, Personal Occasion -- Wendell Warf, 70th birthday.

The Speaker announced that he had referred Senate Resolution No. 15 to Committee on Calendar.

Senate Resolution No. 16 -- General Assembly, Confirmation of Appointment -- Dr. Jay P. Sellick, POST Commission.

The Speaker announced that he had referred Senate Resolution No. 16 to Committee on Judiciary.

CONSENT CALENDAR

Senate Resolution No. 7 -- General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of criminal procedure promulgated by supreme court.

Senate Resolution No. 8 -- General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of civil procedure promulgated by supreme court.

Senate Resolution No. 9 -- General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of appellate procedure promulgated by supreme court.

Senate Resolution No. 10 -- General Assembly, Review or Ratification of Rules -- Approves amendments to Tennessee rules of evidence promulgated by supreme court.

Senator Crowe moved that all Senate Resolutions be adopted, which motion prevailed by the following vote:

Ayes 29
Noes 0

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Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 277 -- Johnson County -- Subject to local approval, clarifies that Mountain Ridge Protection Act does not prohibit construction and maintenance of apparatus used in generation and transmission of electrical power. Amends Chapter 197 of the Private Acts of 1996.

On motion, Senate Bill No. 277 was made to conform with **House Bill No. 459**.

On motion, House Bill No. 459, on same subject, was substituted for Senate Bill No. 277.

Senator Crowe moved that **House Bill No. 459** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

CALENDAR

On motion of Senator Clabough, **Senate Bill No. 287** was rereferred to the Committee on Calendar.

Senate Bill No. 292 -- Housing -- Adds Greene County to those counties authorized to remedy dangerous conditions, including overgrown vegetation and accumulated debris, on owner-occupied lands. Amends TCA Section 5-1-115.

Senator Williams moved for the previous question on Senate Bill No. 292, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker and Mr. Speaker Wilder--29.

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Thereupon, **Senate Bill No. 292** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

On motion of Senator Clabough, **Senate Bill No. 324** was placed on the calendar for Thursday, March 6, 2003.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Haynes as Speaker pro tempore.

CALENDAR

On motion of Senator Fowler, **Senate Bill No. 407** was rereferred to the Committee on Calendar.

Senate Resolution No. 6 -- General Assembly, Confirmation of Appointment -- Confirms Nancy Miller-Herron to Tennessee Claims Commission.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the resolving clause and by substituting instead the following:

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED THIRD GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that the Senate does hereby confirm the appointment of Nancy Miller-Herron of Weakley County, Tennessee, as the Western Division Commissioner of the Tennessee Claims Commission, her term to begin on March 1, 2003, and to expire on June 30, 2005.

Senator Herron declared Rule 13 on **Senate Resolution No. 6**.

On motion, Amendment No. 1 was adopted.

Senator Person moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting from the third resolving clause the language "June 30, 2005;"and by substituting instead the language "June 30, 2007;".

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AND FURTHER AMEND by deleting the resolving clause and by substituting instead the following:

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED THIRD GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, that the Senate does hereby confirm the appointment of Nancy Miller-Herron of Weakley County, Tennessee, as the Western Division Commissioner of the Tennessee Claims Commission, her term to begin on March 1, 2003, and to expire on June 30, 2007.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Resolution No. 6**, as amended, was adopted by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Walker moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 98**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 98 -- Memorials, Personal Achievement -- Brent Mozingo, Eagle Scout.

On motion of Senator Walker, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 98** was concurred in.

A motion to reconsider was tabled.

MOTION

Senator Walker moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 100**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 100 -- Memorials, Personal Achievement -- Thomas Collins, Eagle Scout.

On motion of Senator Walker, the rules were suspended for the immediate consideration of the resolution.

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On motion, **House Joint Resolution No. 100** was concurred in.

A motion to reconsider was tabled.

RECALL OF BILL

On motion of Senator Burchett, **Senate Bill No. 1544** was recalled from the Committee on State and Local Government.

WITHDRAWAL OF BILL

On motion of Senator Burchett, Senate Bill No.1544 was withdrawn from the Senate.

MOTION

Senator Beavers moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 102**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 102 -- Memorials, Public Service -- Lucy W. Lee, Leadership Wilson, Inc.

On motion of Senator Beavers, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 102** was concurred in.

A motion to reconsider was tabled.

MOTION

Senator Crutchfield moved that the Proposed Schedule for the week of March 3, 2003, be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--30.

**TENNESSEE STATE SENATE
103rd GENERAL ASSEMBLY**

**PROPOSED SCHEDULE
FOR THE WEEK OF MARCH 3, 2003**

MONDAY -- March 3

5:00 p.m.

Session -- Senate Chamber

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TUESDAY -- March 4

8:30 a.m. -- 10:30 a.m.	Finance, Ways & Means Committee
10:30 a.m. -- 12:30 p.m.	State & Local Government Committee (Will not meet)
12:30 p.m. -- 1:30 p.m.	Lunch
1:30 p.m. -- 3:30 p.m.	Commerce, Labor & Agriculture Committee
3:30 p.m. -- 5:30 p.m.	Judiciary Committee

WEDNESDAY -- March 5

8:30 a.m. -- 9:30 a.m.	Education Committee
9:30 a.m. -- 10:30 a.m.	General Welfare, Health & Human Resources
10:30 a.m. -- 11:30 a.m.	Environment, Conservation & Tourism Committee
11:30 a.m. -- 12:30 p.m.	Lunch
12:30 p.m. -- 1:30 p.m.	Transportation Committee
1:30 p.m. -- 2:30 p.m.	Government Operations Committee
2:30 p.m.	Senate Caucuses
3:00 p.m.	Session -- Senate Chamber

THURSDAY -- March 6

9:00 a.m.	Session -- Senate Chamber
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OTHER MEETINGS:

Monday, March 3, 2003 -- Council on Pensions & Insurance
1:30 p.m. -- Room 29 LP

Wednesday, March 5, 2003 -- Rules Committee
3:30 p.m. or immediately following Session
LP 1 Conference Room

Wednesday, March 5, 2003 -- Predatory Lending Study Committee
3:30 p.m. or immediately following Session
Room 12/14 LP

MOTION

Senator Crowe moved that Rule 38 be suspended for the purpose of placing the following resolutions on a consent calendar for today, which motion prevailed: **House Joint Resolutions Nos. 42, 43, 110, 111 and 112.**

CONSENT CALENDAR

House Joint Resolution No. 42 -- Naming and Designating -- "Teachers Day" in Tennessee, May 6, 2003.

House Joint Resolution No. 43 -- General Assembly, Statement of Intent or Position -- Endorse "Read Across America" program.

House Joint Resolution No. 110 -- Memorials, Death -- Jane G. Kisber.

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House Joint Resolution No. 111 -- Memorials, Congratulations -- Paula Wade.

House Joint Resolution No. 112 -- Memorials, Professional Achievement -- University of Tennessee Lady Vols Coach Pat Head Summitt, 800 career coaching victories.

Senator Crowe moved that all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Haynes, Henry, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Walker, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

MOTION

On motion of Senators Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Walker, Williams and Mr. Speaker Wilder, their names were added as sponsors of **Senate Resolution No. 6**.

On motion, all Senators' names were added as sponsors of **House Joint Resolutions Nos. 42, 43, 110, 111 and 112**.

RECALL OF BILL

On motion of Senator Ketron, **Senate Bill No. 1331** was recalled from the Committee on Finance, Ways and Means.

WITHDRAWAL OF BILL

On motion of Senator Ketron, Senate Bill No. 1331 was withdrawn from the Senate.

RECALL OF BILL

On motion of Senator McLeary, **Senate Bill No. 1830** was recalled from the Committee on Judiciary.

WITHDRAWAL OF BILL

On motion of Senator McLeary, Senate Bill No. 1830 was withdrawn from the Senate.

RECALL OF BILL

On motion of Senator McLeary, **Senate Bill No. 1835** was recalled from the Committee on Judiciary.

WITHDRAWAL OF BILL

On motion of Senator McLeary, Senate Bill No. 1835 was withdrawn from the Senate.

ENGROSSED BILLS

February 27, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 292, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

February 27, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 23, 103, 105, 106 and 110; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

February 27, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 77, 78, 79, 83, 84, 85, 86, 106 and 108; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

February 27, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 6, 7, 8, 9 and 10; and Senate Joint Resolution Nos. 23, 85, 86, 87, 89, 90, 91, 95, 96, 97, 98, 99, 102, 103, 105, 106 and 110; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

SIGNED

February 27, 2003

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 42, 43, 98, 100, 102, 110, 111 and 112.

SIGNED

February 27, 2003

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 77, 78, 79, 83, 84, 85, 86, 106 and 108.

SIGNED

February 27, 2003

The Speaker announced that he had signed the following: Senate Resolutions Nos. 6, 7, 8, 9 and 10; and Senate Joint Resolutions Nos. 23, 85, 86, 87, 89, 90, 91, 95, 96, 97, 98, 99, 102, 103, 105, 106 and 110.

MESSAGE FROM THE HOUSE

February 27, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 23, 85, 86, 87, 89, 90, 91, 95, 96, 97, 98, 99, 102, 103, 105, 106 and 110; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

February 27, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 42, 43, 110, 111 and 112; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

February 27, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 107 and 109, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

February 27, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 23, 85, 86, 87, 89, 90, 91, 95, 96, 97, 98, 99, 102, 103, 105, 106 and 110; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

February 27, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 53, 61, 62, 63, 65, 66, 68, 69, 70, 72, 73, 79, 92, 93, 94, 100 and 107; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, March 3, 2003: House Joint Resolutions Nos. 89, 90, 91, 92, 93, 94, 96, 99, 101, 103 and 104; Senate Joint Resolutions Nos. 111, 112, 113, 114, 115, 116, 118, 119, 120, 122, 123, 124, 125 and 126; and Senate Resolutions Nos. 12, 14 and 15.

This the 27th day of February, 2003.
CROWE, Chairperson.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, March 3, 2003: Senate Bills Nos. 341, 347, 390, 461, 652, 774 and 134.

This the 27th day of February, 2003.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bill has been set on the Consent Calendar for Monday, March 3, 2003: Senate Bill No. 667.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 5:00 p.m., Monday, March 3, 2003, which motion prevailed.